

# STERILIZATION IN SWEDEN

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(Member of the Government Commission)

A STERILIZATION law was accepted by the Swedish Parliament in 1934 and came into force on January 1st, 1935. This law governs only the sterilization of persons suffering from insanity, feeble-mindedness or other mental disorders, who by reason of such condition are permanently inhibited from giving a valid consent to this proceeding. Such persons may be sterilized without their consent if the assumption is established that they will not in the future be able to look after their children or that they might transmit to offspring by heredity mental disease or defect. The law recognizes social, as well as eugenic, grounds for sterilization. In practice, the lack of capacity to give a valid consent to sterilization plays the major part ; for persons who by reason of disease or defect are thus incapacitated may be taken to be permanently incapable of parental responsibility.

## *Principles of Swedish Sterilization Law*

The intention of the law as outlined by the Minister of Justice prevents the statute from being interpreted as permitting the use of compulsion.\* In principle, only voluntary sterilization may be undertaken, despite the fact that certain persons may be sterilized without their consent when suffering from legal incapacity.

Thus, the Swedish sterilization law is strictly limited. Voluntary sterilization of persons who can give legal consent is outside the scope of the law. This does not mean that such sterilizations are not allowed. On the contrary, since the Act came into force, relying on the above-mentioned intention, the position is now accepted that voluntary sterilization is allowed on adequate grounds.

\* A report of the Commission of Population, including recommendations for a law on voluntary sterilization, was submitted to the Ministry of Justice in October 1936. This report has been published in Stockholm.

It occurs without legal procedure. Control exists only through the obligation on the surgeon performing the operation to report thereon to the Ministry of Health. From this point of view, it appears that Sweden stands in a unique position among those countries which have legislation or contemplate legislation on this matter.

Another point of difference is that in Sweden sterilization of the feeble-minded does not depend on examination by a central board, but may be carried out when two consulting physicians agree on the condition. In other cases, falling within the law, the consent of the Ministry of Health must be obtained.

## *The Preliminary Investigations*

Before the law came into force, considerable anxiety was expressed in regard to voluntary sterilization. Parliament regarded as of some importance the arguments adduced for the introduction of regulations thereon, and in passing the measure asked for further investigation of these points. The Swedish Population Commission, to which I belong, was instructed to carry out these investigations in 1935. For this purpose, a committee was meanwhile set up, consisting of Professor H. Nilsson-Ehle, Medical Director, Dr. Torsten Sjoegren, and myself.

The Committee came early to the conclusion that the Swedish law contains some obvious defects. Of these, the most important is the above-mentioned omission of regulations in regard to voluntary sterilization. I see nothing to prevent my mentioning at once that we regarded decisions of this character as highly desirable. On the one hand, it is clear that when no regulations exist, there is a danger of ill-advised operations without examination by specialists in the supposed condition, where the decision is left entirely to individual physicians. A

further point of view is equally important. The present law, being as has been said strictly limited, fails to deal with the most important group of cases for sterilization, both on eugenic and social grounds—namely, the higher grades of the feeble-minded; at present, only idiots and low-grade imbeciles fall within the provisions. Of greater importance are cases of retardation or mild mental defect, cases of which it cannot be said that they are incapable of consent. In particular, sterilization is desirable for the category which show not only retardation but strong asocial traits, among which are lack of sexual inhibitions. The fertility of this group is admittedly high, although exact statistical data are wanting. A reduction of this fertility by sterilization would be of importance both from the eugenic and the social point of view. The extent of improvement in the genetical composition of the population by sterilization will not be dealt with here. If results are to be obtained, it will certainly be of critical importance to include as widely as possible the above-mentioned group, which is hardly touched by sterilization at present. The law has, without doubt, produced some good effects, though it must be admitted that these are smaller than was generally anticipated; this is undoubtedly owing to the exemption of this category.

### *Legislative Possibilities*

To remedy the situation, two courses can be envisaged. One is to tighten up the law now obtaining for operations without consent by removing the condition that the patient is incapable of valid agreement; the feeble-minded should certainly be eligible without this condition. Such extension ought not to arouse misgivings, for the individuals under consideration are intellectually so near to those which now are included that they may be treated on the same footing. Indeed, the concept of legal incapacity may to a considerable degree be regarded as a fiction. This possibility has been seriously considered by the Committee.

The second part of this desirable objective may be attained by regulation of voluntary

sterilization. As matters stand, only a negligible number of the mentally retarded have the operation, and under suitable enactments a great increase would take place within this category.

### *Comparison with Denmark*

Without anticipating the results of the findings of our Committee on these two methods, I will merely add the interesting point of view on this question which I encountered on a recent tour in Denmark in consultation with several of the more prominent experts there. I got an excellent impression of the splendidly organized care of the feeble-minded, including their registration and guardianship, and collaboration between the institutions and the Sterilization Commission. Operations on the feeble-minded are there put on a plane which gives the widest possible extension of the law. According to the Danish enactments, retarded and asocial individuals fall for the most part in the same group as the feeble-minded—there being a special law for these cases distinct from the sterilization law. The difficulties would be much greater in Sweden as there is not the same basis on which to organize treatment of the feeble-minded. This probably makes it advisable to follow another course than that adopted by the Danes.

### *Views of Investigation Committee*

It is permissible to give a general summary of the views of our Committee:

1. We would extend voluntary sterilization to the mentally disordered and the mentally subnormal (including sufferers from mental diseases, psychopathic conditions and every grade of mild mental defect) as soon as such persons show tendencies of incompetence in the upbringing of children.

2. Eugenic indications should be recognized not only in these cases, but as covering a widely extended group, namely wherever there is danger of the transmission of mental or physical disease, deformity or subnormality to posterity. Moreover, persons of whom there is a high probability that,

though themselves normal, they may be carriers of such disastrous heredity, should have the right to sterilization.

3. Mere social dependency should, in our view, not be admissible for sterilization. Cases, however, exist in which social inadequacy and other conditions occurring together justify sterilization. These other conditions would be medical or eugenic, but taken by themselves not sufficiently strong to justify the operation. We have here to do with socio-medical or socio-eugenical indications. It seems to us important that such cases should be included. This is not the place to consider the formula required.

It will be grasped from the above that we consider a want of economic capacity to bring up children as a suitable reason under certain conditions for voluntary sterilization. Whoever harbours doubts of this principle should realize that on the average the persons whose sterilization would thus be promoted and made possible compose a body of human material whose procreation is neither socially nor eugenically valuable. One inescapable condition in the view of the Committee is that for all sterilizations not based on purely medical indications, authorization by a central board must be forthcoming. Such decisions resemble in some degree the proposal of the English Departmental Committee on Sterilization, though at some points they would go beyond it. The principles, if not the formulation, are akin to those of the Danish law. The German sterilization law admits of a form of compulsion incompatible with Swedish legal conceptions, while it admits of voluntary sterilization with undue restriction.

#### *Sterilizations in 1935*

I give now data on the operations in Sweden during 1935. The total is 287. This figure includes operations performed on medical grounds. When these are deducted, the total falls to 229. The cases may be subdivided as follows :

#### *Sterilization under the law of 1934*

Feeble-minded, with consent of			
the medical authority	...	33	} 128
without such consent ...	...	95	
Insane	...	...	7
Other mental disorders	...	...	1
Total	...	...	136

#### *Voluntary sterilizations as reported*

Purely medical cases	...	...	56
Other cases (overlapping somewhat with the above)	...	...	100
Total	...	...	156

In the last-mentioned hundred cases, while about twenty had adequate medical indications, the rest were partly medical but partly influenced by other conditions. It may be well to consider these hundred in detail.

The non-medical indications fall into two main categories, namely, eugenic and social; that is, on the one hand, incapacity to bring up children, and, on the other, a condition of social dependency which would be rendered more grave by the birth of further children. True epilepsy in what follows is regarded as both eugenic and medical. Eugenic grounds occur in not less than seventy-five cases if, without going into the particular determining factor of each case, the positive danger of disease or deficiency in offspring is accepted; in more than sixty, these reasons alone would have justified action. Medical reasons hold in fifty-nine cases and social grounds in seventy-two. The greatest interest attaches to the diversity in type of the series :

	Cases
Purely eugenic grounds	2
Medical and eugenic grounds	25
Social and eugenic grounds	35
Social, medical and eugenic grounds	12
Social and medical grounds	19
Social or indeterminate grounds	5

In the last two categories, several cases occurred which would probably not have

been accepted for sterilization without additional grounds had there been legal regulations in force. The distinction of these types is, of course, schematic and open to several sources of error. A further survey follows of the eugenic reasons which are, in part, also medical or social.

	Cases
Mental disease ... ..	12
Psychopathics ... ..	22
Mental deficiency (retardation) ...	30
Epilepsy ... ..	10
Hereditary progressive muscular atrophy ... ..	1
Total ... ..	75

The line between psychopathic conditions

and mental disorder is somewhat arbitrary, depression being reckoned with the latter. Mental deficiency embraces amentia, child feeble-mindedness, rather than what can be characterized as intellectual retardation. A few cases are included with pronounced antisocial tendencies, which in all probability entail a certain intellectual failure.

I cannot here discuss in detail cases which sterilization was not granted, as they do not fall under the present Swedish law. Here would belong fourteen antisocial women who had between them fifty-nine children. This throws a clear light on the present position of the sterilization problem in Sweden in so far as it emphasizes the importance of regulations for the operation beyond those included in the present law.

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